

### **REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed June 27, 2008 ("Office Action"). The Office Action rejects Claims 1-11, 13-16, 18-36, and 38-52. Applicants herein amend Claim 31 and add new Claims 53 and 54. Applicants do not admit that any amendments are necessary due to the Office Action's rejections or the prior art. Applicants traverse the rejections and respectfully request reconsideration and allowance of all pending claims.

#### **Summary of Telephone Interview**

Applicants' attorney, Justin N. Stewart, conducted a telephone interview with Examiner Avi Gold on October 23, 2008. Pursuant to M.P.E.P. § 713.04, Applicants submit this summary of the telephone interview to record Applicants' understanding of the substance of the interview. If Applicants' understanding is inaccurate, notice of such is appreciated.

Applicants' attorney thanks the Examiner for the courtesy of the telephone interview. During the interview, the Examiner and Applicants' attorney discussed the "server" recited in Claim 31. In addition, the Examiner and Applicants' attorney discussed "calculating a delay period by at least multiplying the delay constant by at least a portion of a network address associated with the at least one node" as recited in Claim 1. Although no agreement was reached, the Examiner agreed to consider Applicants' arguments and amendments, articulated in this Response, with respect to the rejections.

#### **Section 101 Rejections**

The Office Action rejects Claim 31 under 35 U.S.C. 101. In particular, the Office Action asserts that Claim 31 is directed to non-statutory subject matter. (Office Action; p. 2). Without acquiescing to this assertion, Applicants note that Claim 31, as amended, complies with the requirements of 35 U.S.C. 101. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 31 and its dependents.

**Objections to Specification**

***Claims 49-50***

The Office Action objects to the Specification under 37 C.F.R. 1.75(d)(1) with respect to Claims 49 and 50. In particular, the Office Action asserts that the Specification does not provide antecedent basis for the “program storage device” recited in Claim 49 and the “computer data signal embodied in a transmission medium” recited in Claim 50. Without acquiescing to this assertion, Applicants note that the Specification is herein amended to insert the following paragraphs at page 4, line 18 of the Specification:

According to another aspect of the present disclosure, a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to identify a plurality of nodes on a network, comprises instructions to receive at at least one of the plurality of nodes on the network a query posed by a caller node. The program storage device further comprises instructions to monitor, at a responder node which received the query, responses from other nodes to the query and maintain a list of nodes which responded to the query.

According to another aspect of the present disclosure, a computer data signal embodied in a transmission medium comprises (1) a first segment including receive query code to receive a query sent by a caller node to a plurality of nodes on a network, and (2) a second segment including list processing code to monitor responses from other nodes to the query and maintain a list of nodes which responded to the query.

Support for this amendment may be found on at least page 29, lines 9-22 of the Specification. Applicants respectfully note that “the ‘claims’ as filed in the original Specification are part of the disclosure.” *In re Brenno*, 768 F.2d 1340, 226 U.S.P.Q. 683 (Fed. Cir. 1985); M.P.E.P. § 2163. Because the Specification, as amended, provides antecedent basis for the “program storage device” recited in Claim 49 and the “computer data signal embodied in a transmission medium” recited in Claim 50, Applicants respectfully request that the objection to the Specification be withdrawn.

***Claims 46-48***

The Office Action objects to the Specification under 37 C.F.R. 1.75(d)(1) with respect to Claims 46-48. In particular, the Office Action asserts that the Specification does not provide antecedent basis for the “computer readable medium having computer executable code” recited in Claims 46-48. Applicants note, however, that this language has clear support

and antecedent basis in the Specification. For example, page 4, lines 9-17 of the Specification states:

According to another aspect of the present disclosure, a computer readable medium having computer executable code for identifying nodes on a network, comprises server code for posing a query to a plurality of client nodes on the network and client code for use by a plurality of client nodes for receiving the query posed by a caller node and for determining an answer to the query, the client code including code instructing each of the plurality of client nodes to forward the answer to the query to the caller node, wherein when a node running the server code receives the answers to the query from the plurality of client nodes a node running the server code maintains a list of client nodes which responded to the query.

(Emphasis added).<sup>1</sup> Therefore, the Specification complies with 37 C.F.R. 1.75(d)(1). Accordingly, Applicants respectfully request that the objection to the Specification be withdrawn.

### **Drawings**

The Office Action objects to the drawings under 37 C.F.R. 1.83(a). In particular, the Office Action asserts that the drawings do not show calculating a delay period by at least multiplying the delay constant by at least a portion of a network address. (Office Action; p. 3). Without acquiescing to this assertion, Applicants submit with this Response a Replacement Sheet for FIGURE 2. The Replacement Sheet for FIGURE 2 includes Step S25, which states: "Multiply Delay Constant By Network Address To Calculate Delay." This amendment is supported in the Specification by at least page 7, lines 10-18; page 21, lines 18-20; page 24, lines 1-4; and page 27, lines 1-2.<sup>2</sup> Applicants respectfully submit that the drawings, as amended, comply with 37 C.F.R. 1.83(a). Accordingly, Applicants respectfully request that the objection to the drawings be withdrawn.

### **Section 103 Rejections**

#### ***Claims 1-11, 13-15, 21-36, 38-40, 46, 47, and 49-52***

The Examiner rejects Claims 1-11, 13-15, 21-36, 38-40, 46, 47, and 49-52 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,192,404 B1 issued to Hurst, et al.

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<sup>1</sup> Applicants cite this portion of the Specification merely to illustrate compliance with 37 C.F.R. 1.75(d)(1). In doing so, Applicants do not intend to limit the claims to any particular embodiment.

<sup>2</sup> In citing these portions of the Specification, Applicants do not intend to limit the claims to any particular embodiment.

(“*Hurst*”) in view of U.S. Patent No. 5,253,252 issued to Tobol (“*Tobol*”). Applicants traverse the rejection and respectfully request reconsideration and allowance of these claims.

The cited references fail to teach, suggest, or disclose each element of Claim 1. For example, the cited references fail to teach, suggest, or disclose “calculating a delay period by at least multiplying the delay constant by at least a portion of a network address associated with the at least one node” as recited in Claim 1. The Office Action relies on *Tobol* for this element of Claim 1. (Office Action; p. 5). The cited portion of *Tobol* describes a procedure by which network devices may bid to become a bus master. (*Tobol*; col. 10, ll. 37-42). In particular, the cited portion of *Tobol* states:

If the device which failed was the current bus master, then all remaining devices wait a period of time equal to (their device address plus three) multiplied by the maximum round trip delay time through the network multiplied by two. After waiting for this amount of time, the procedure for bidding to become a master is invoked.

*Id.* Thus, *Tobol* discloses “a period of time equal to (their device address plus three) multiplied by the maximum round trip delay time through the network multiplied by two.”

*Id.* The multiplication in *Tobol* does not teach, suggest, or disclose the multiplication recited in Claim 1. In particular, Claim 1 recites “multiplying the delay constant by at least a portion of a network address.” Claim 1 further recites that “the delay constant” is comprised in the “query sent from a caller node.” Thus, according to Claim 1, the “delay period” is calculated by at least multiplying the “delay constant” comprised in the “query sent from a caller node” by “at least a portion of a network address associated with the at least one node.” The cited portion of *Tobol* does not teach, suggest, or disclose multiplying anything by a “delay constant” comprised in “a query sent from a caller node,” as recited in Claim 1. Accordingly, the cited references fail to teach, suggest, or disclose “calculating a delay period by at least multiplying the delay constant by at least a portion of a network address associated with the at least one node” as recited in Claim 1. Because the cited references fail to teach, suggest, or disclose this element of Claim 1, the rejection is improper. For at least this reason, Applicants respectfully request reconsideration and allowance of Claim 1 and its dependents.

The Office Action rejects Claims 6, 21, 26, 31, 46-47, and 49-52 based on rationale that is similar to that used to reject Claim 1. Accordingly, for reasons analogous to those stated above with respect to Claim 1, Applicants respectfully request reconsideration and allowance of Claims 6, 21, 26, 31, 46-47, and 49-52 and their respective dependents.

***Claims 16, 18-20, 41-45, and 48***

The Examiner rejects Claims 16, 18-20, 41-45, and 48 under 35 U.S.C. 103(a) as being unpatentable over *Hurst* in view of *Tobol*, U.S. Patent No. 5,471,461 issued to Engdahl, et al. ("*Engdahl*"), and U.S. Patent 6,791,981 B1 issued to Novaes ("*Novaes*"). Applicants traverse the rejection and respectfully request reconsideration and allowance of these claims.

The cited references fail to teach, suggest, or disclose each element of Claim 16. For example, the cited references fail to teach, suggest, or disclose "calculating a delay period to wait before responding to the query, the delay period calculated by at least multiplying the delay constant by at least a portion of a network address associated with the node" as recited in Claim 16. The Office Action relies on *Tobol* for this element of Claim 16. (Office Action; p. 15). However, as shown above, *Tobol* fails to teach, suggest, or disclose that the "delay period" is calculated by at least multiplying the "delay constant" comprised in the "query from a caller node" by "at least a portion of a network address associated with the node" as recited in Claim 16. Therefore, the cited references fail to teach, suggest, or disclose "calculating a delay period to wait before responding to the query, the delay period calculated by at least multiplying the delay constant by at least a portion of a network address associated with the node" as recited in Claim 16. Because the cited references fail to teach, suggest, or disclose each element of Claim 16, the rejection is improper. For at least this reason, Applicants respectfully request reconsideration and allowance of Claim 16 and its dependents.

In rejecting Claims 41 and 48, the Office Action employs the same rationale used to reject Claim 16. Accordingly, for at least the reason stated above with respect to Claim 16, Applicants respectfully request reconsideration and allowance of Claims 41 and 48 and their respective dependents.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Justin N. Stewart, Attorney for Applicants, at the Examiner's convenience at (214) 953-6755.

The Commissioner is hereby authorized to charge the \$130.00 one-month extension of time fee and to charge any deficiency or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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